July 2024
Workers' Compensation Advisory Council

Cost Drivers for Worker's Compensation in South Dakota

Executive Summary

A review of the South Dakota Worker's Compensation medical cost drivers reveals a shift in claims payments over a timeline from 2012 to 2023. Data indicates a markedly higher average cost per lost-time claim in South Dakota than the regional or countrywide averages. This shift demonstrates less utilization and payments made to both physical medicine providers and ambulatory surgery centers, with a proportionate increase to hospital outpatient facilities – largely for advanced imaging and surgery services.

Worker's Compensation Data findings of fact:

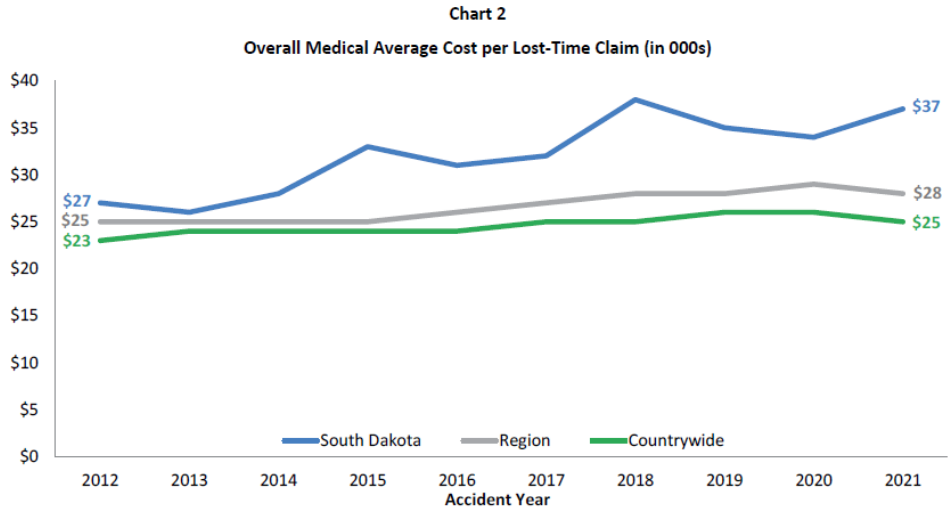
1. Data collection was performed to determine the medical cost drivers for worker compensation claims, which includes granular data reflecting provider type, from 2010 - 2023 (data was provided by the South Dakota Bureau of Labor and Management and NCCI reports)
2. An attempt was made to identify and track the ownership of care management plans (Managed Care Organizations – MCO) registered in the State of South Dakota. An official statement of denial to release information was received on 1-10-2024 from the Department of Labor and Regulation.
3. An attempt was made to identify and track the MCOs and their current clients, consisting of insurance companies and self-insured employers. An official statement of denial to release information was received on 1-10-2024 from the Department of Labor and Regulation.
4. State law was researched to understand both the law and administrative rules governing Worker's Compensation in the State of South Dakota. The facts are referenced throughout this report.
5. The Federal Physician Self-Referral Law, commonly referred to as the Stark law [42 U.S.C. § 1395nn], prohibits referrals when financial relationships exist, including both ownership/investment interests and compensation arrangements. Consideration of this federal law provides insight into the implications of self-referral to the driver of higher health care costs. With this in mind, ownership of managed care organizations should be assessed to determine if self-referral financial relationships exist within the worker's compensation system in South Dakota.

The State of South Dakota should be concerned about this for a variety of factors, 1) medical costs for workers compensation are higher in South Dakota when compared to other states in our region or countrywide, 2) conservative care is less utilized (physical medicine) and appears to be diverted to more invasive procedures when compared to other states in our region or countrywide, and 3) a self-referral scenario playing out is being called into question within the state that could be leading to less conservative care and higher costs – all of which are markedly different from regional and countrywide averages.

This report attempts to generate necessary discussion regarding the medical cost drivers for workers' compensation in South Dakota.

Determining Medical Cost Drivers in Worker's Compensation Claims in South Dakota

The NCCI Reference Guide for South Dakota[1] defines the data collected from the state level to produce these reports. These NCCI reports are available from the South Dakota Department of Labor and Regulation[2] website (see footnote). In review of these reports, we begin with the most recent October 2023 report which provides the chart below illustrating how South Dakota compares to the regional and countrywide average for each individual accident year and allows for the comparison of the growth in average medical costs.



Source: NCCI's Calendar-Accident Year Call for Compensation Experience. Region includes IA, IL, IN, KS, MO, NE, and OK. Countrywide data includes AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NC, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, and WV.

The timeline in Chart 2 demonstrates the average cost per lost-time claim in South Dakota is markedly higher that the regional or countrywide averages. A deeper dive into the NCCI reports year by year reflect that, not only are average costs higher, but there has been a shift in the provider and types of services provided from 2012 to 2020 from physician and ambulatory surgery center services to hospital outpatient services:

Distribution of Medical Payments for South Dakota (Chart 4)

Medical Category	2012	2013	2014	2015	2016
Physician	28%	27%	26%	26%	26%
Hospital Outpatient	29%	31%	31%	31%	32%
Hospital Inpatient	15%	13%	14%	17%	13%
ASC	3%	4%	4%	3%	4%
Drugs	12%	13%	12%	12%	12%
DME, Supplies, and Implants	10%	10%	10%	9%	10%
Other	3%	2%	3%	2%	3%

(NCCI Medical Data Report for the State of South Dakota October 2017)

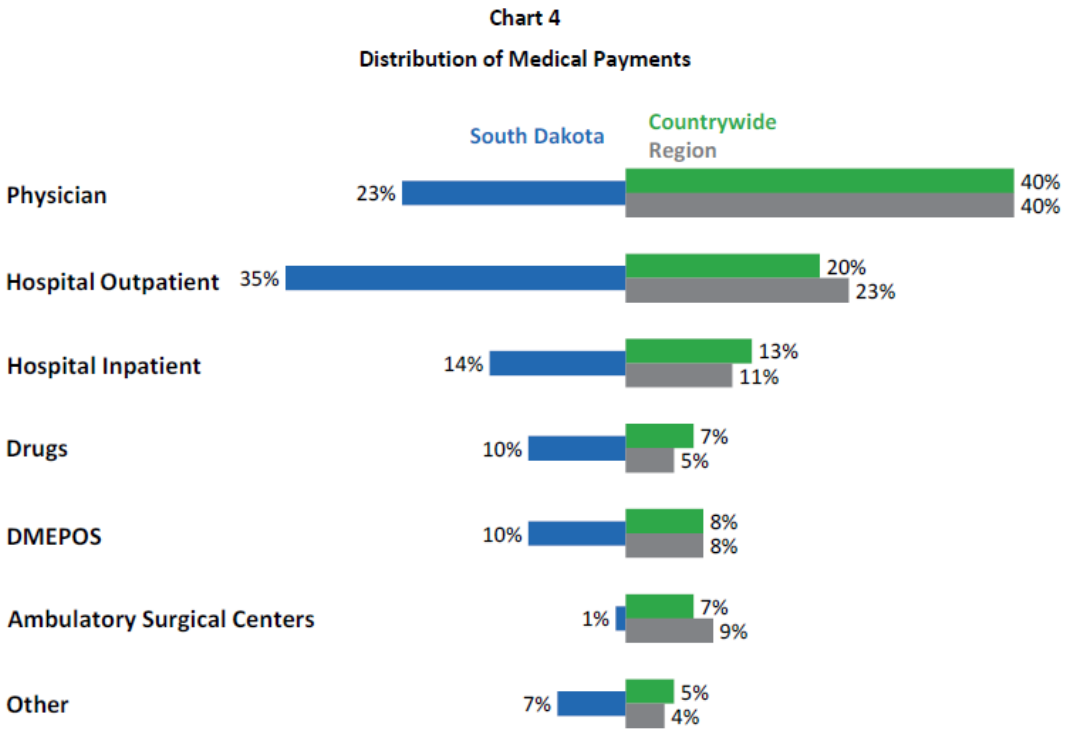
[1] https://www.ncci.com/Articles/Pages/DR_StateReferenceGuideState_SD.aspx
[2] https://dlr.sd.gov/workers_compensation/publications.aspx

Distribution of Medical Payments (Chart 4)

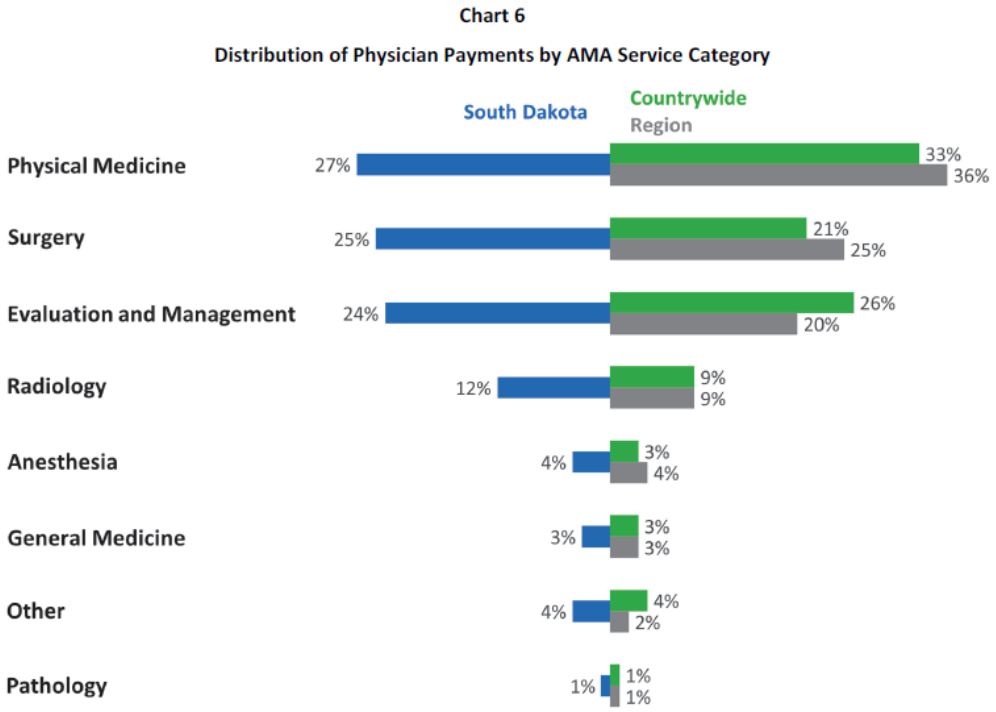
Medical Category	2016	2017	2018	2019	2020
Physician	26%	25%	25%	25%	24%
Hospital Outpatient	31%	32%	32%	35%	36%
Hospital Inpatient	13%	13%	15%	12%	12%
Drugs	13%	13%	11%	11%	11%
DMEPOS	10%	11%	12%	11%	12%
ASC	4%	3%	2%	1%	1%
Other	3%	3%	3%	5%	4%

(NCCI Medical Data Report for the State of South Dakota October 2021)

The NCCI Medical Data Report for the State of South Dakota October 2023 shows a continued decline in Physician Services (as compared to regional and countrywide averages):



When comparing Physician Payments to the region and countrywide averages (NCCI Medical Data Report for the State of South Dakota October 2023) the breakdown shows the payments made to Physical Medicine and Ambulatory Surgery Centers are markedly lower than the regional and countrywide averages for utilization.



<u>Summary from NCCI Reports</u>

Based upon these reports[3], these facts become evident:

1. Medical Payments for worker's compensation claims in South Dakota are markedly higher than regional and countrywide averages.

2. During the 2012-2023 timeline, there is a shift in medical payments characterized by a decrease in payments to physician and ambulatory surgery centers and a corresponding increase at the same rate to hospital outpatient services.

3. South Dakota hospital outpatient services are provided at a higher utilization than the regional and countrywide averages for the hospital outpatient services, consisting of higher utilization of advanced imaging and surgery.

[3] NCCI Medical Data Report for the State of South Dakota (2017 – 2023) Accessed at: https://dlr.sd.gov/workers_compensation/publications.aspx#annual on 12-24-2023.

4. Regarding physician services, physical medicine services are provided at a markedly lower utilization rate than the regional or countrywide averages. Physical medicine services are regularly performed by chiropractic and physical therapy practitioners.

In addition to the review of the NCCI reports, further raw data was obtained from the Department of Labor and Regulation pertaining to direct costs per medical category of provider between 2010 to 2023 (see addendum for full data report). In summary, the payment for chiropractic services dropped from $1,804,365.24 (2.7% of total costs) in 2010 to $ 569,497.61 (0.86% of total costs) in 2023. the payment for physical therapy services dropped from $8,170,790.08 (12.2% of total costs) in 2010 to $3,454,899.88 (5.2% of total costs) in 2023.

Key questions and possible explanations for the above average costs per claim and above average utilization of hospital outpatient services coupled with lower physical medicine utilization:

1. **Is there a lack of protocols for conservative care (physical medicine) to be engaged and tried prior to advanced imaging or surgery?**
   It is apparent with the decreasing involvement in workers compensation cases of physical medicine providers such as chiropractors and physical therapists, non-drug, non-surgical conservative care appears to be bypassed as the first response. Education about this should be pursued with the Department of Labor and Management and potentially built into administrative rules.

2. **Do South Dakota workers experience more severe injuries that warrant hospital outpatient services, consisting of more advanced imaging and surgery when compared to the regional and countrywide average?**
   When comparison is made with the types of diagnosis of injury and illness regionally and countrywide, there are not any apparent disparities in the common diagnoses encountered in work related incidents, therefore this is not a plausible explanation for higher hospital outpatient services and advanced imaging.

3. **Is the South Dakota workers compensation fee schedule paid to providers a higher rate when compared to the regional and countrywide averages?**
   The NCCI Medical Data Report for the State of South Dakota October 2023 demonstrates that South Dakota actually has a reimbursement rate below the region and countrywide averages based upon its comparison to Medicare schedule reimbursement:

The chart below shows the average percentage of Medicare schedule reimbursement[2] amounts for physician payments by category for South Dakota, the region, and countrywide. Note that "all physician services" in Chart 5 below refers only to the categories listed in the chart, and the state comparison reflects Medicare's geographic adjustments. In South Dakota, 94% of "all physician services" payments are included in the chart below.

Chart 5

Physician Payments as a Percentage of Medicare

Physician Service Category	South Dakota	Region	Countrywide
General and Physical Medicine	113%	149%	133%
Surgery	197%	321%	250%
Evaluation and Management	99%	144%	137%
Radiology	225%	282%	219%
Anesthesia	283%	386%	290%
All Physician Services	**137%**	**189%**	**160%**

4. **Is there a potential for referrals being made for hospital outpatient services by managed care organizations which may be owned by hospital or health systems affiliated with the hospital outpatient facilities; resulting in a self-referral scenario?**
   As mentioned previously, the Federal Physician Self-Referral Law, commonly referred to as the Stark law [42 U.S.C. § 1395nn], prohibits physicians from referring patients to receive "designated health services" payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies. Financial relationships include both ownership/investment interests and compensation arrangements. Consideration of this federal law provides insight into the implications of self-referral to the driver of higher health care costs. With this in mind, ownership of managed care organizations should be assessed to determine if self-referral financial relationships exist within the worker's compensation system in South Dakota; and if this is a possible explanation for the markedly above average medical costs as well as the shift away from physical medicine services to hospital outpatient advanced imaging and surgery.

In effort to determine if self-referral is occurring with the South Dakota Worker's Compensation system, a review of the current certified case management plans was conducted. (Certified Case Management Plans for Workers' Compensation in South Dakota gathered from the South Dakota Department of Labor and Regulation website[4]). Ownership of the certified case management plans was requested through the Division of Insurance and the Department of Labor and Regulation. An official statement of denial to release information was received on 1-10-2024 from the Department of Labor and Regulation.

[4] https://dlr.sd.gov/workers_compensation/case_management.aspx

In addition, a request to have a list of the payers or self-insured employers who have contracted with each case management plan was requested through the Division of Insurance and the Department of Labor and Regulation. It is currently a requirement that all employers and/or insurance providers contract with a case management plan for worker's compensation claims. An official statement of denial to release information was received on 1-10-2024 from the Department of Labor and Regulation.

Conclusion

We ask the Workers' Compensation Advisory Council to take necessary steps to assess these medical cost drivers. We are happy to provide any assistance we can to help in this endeavor.

Thank you!

South Dakota Chiropractors Association

Worker's Compensation Costs per Medical Categories[5]

2010

Medical Categories	Total Costs
Chiropractor	**$1,804,365.24**
Counseling Services	**$39,066.64**
Dentist	**$126,435.50**
Doctor	**$13,106,393.98**
Equipment	**$1,285,654.91**
Home Health Care	**$810,202.65**
Hospital	**$27,140,800.76**
Other Medical Expenses	**$6,410,980.74**
Pharmacy	**$5,457,934.17**
Physical Therapy Fees	**$8,170,790.08**
Radiology	**$2,531,895.14**
Total Medical Expenses:	**$66,884,519.81**

2011

Medical Categories	Total Costs
Chiropractor	**$1,430,524.34**
Counseling Services	**$12,482.79**
Dentist	**$119,314.26**
Doctor	**$10,602,503.20**
Equipment	**$1,227,665.30**
Home Health Care	**$446,113.11**
Hospital	**$28,975,821.25**
Other Medical Expenses	**$8,105,494.89**
Pharmacy	**$4,053,230.24**
Physical Therapy Fees	**$4,963,709.40**
Radiology	**$1,896,793.23**
Total Medical Expenses:	**$61,833,652.01**

2012

Medical Categories	Total Costs
Chiropractor	**$1,485,032.01**
Counseling Services	**$4,741.70**
Dentist	**$140,757.08**
Doctor	**$13,838,647.54**
Equipment	**$1,181,189.09**
Home Health Care	**$568,320.15**
Hospital	**$41,533,810.92**
Other Medical Expenses	**$7,695,923.40**
Pharmacy	**$7,849,499.92**
Physical Therapy Fees	**$6,233,209.95**
Radiology	**$2,096,630.25**
Total Medical Expenses:	**$82,627,762.00**

2013

Medical Categories	Total Costs
Chiropractor	**$1,374,807.52**
Counseling Services	**$28,147.30**
Dentist	**$123,555.42**
Doctor	**$15,049,538.95**
Equipment	**$1,409,691.55**
Home Health Care	**$4,020,552.80**
Hospital	**$40,053,068.08**
Other Medical Expenses	**$11,539,107.41**
Pharmacy	**$8,549,916.86**
Physical Therapy Fees	**$11,248,431.41**
Radiology	**$13,293,201.49**
Total Medical Expenses:	**$106,690,018.80**

[5] Department of Labor and Regulation, Riley Bennett 12-15-2023.

2014

Medical Categories	Total Costs
Chiropractor	**$1,262,469.16**
Counseling Services	**$34,651.32**
Dentist	**$146,242.27**
Doctor	**$24,361,176.60**
Equipment	**$1,612,011.19**
Home Health Care	**$4,670,204.56**
Hospital	**$47,338,856.02**
Other Medical Expenses	**$14,216,459.85**
Pharmacy	**$10,067,836.16**
Physical Therapy Fees	**$5,060,074.64**
Radiology	**$2,212,760.37**
Total Medical Expenses:	**$110,982,742.14**

2015

Medical Categories	Total Costs
Chiropractor	**$1,286,350.38**
Counseling Services	**$31,900.88**
Dentist	**$152,052.09**
Doctor	**$17,379,101.47**
Equipment	**$2,064,192.79**
Home Health Care	**$6,007,402.65**
Hospital	**$53,741,125.58**
Other Medical Expenses	**$12,668,703.18**
Pharmacy	**$7,942,385.89**
Physical Therapy Fees	**$5,385,512.90**
Radiology	**$2,511,421.15**
Total Medical Expenses:	**$109,170,148.96**

2016

Medical Categories	Total Costs
Chiropractor	**$1,186,412.15**
Counseling Services	**$39,949.25**
Dentist	**$160,362.75**
Doctor	**$18,118,077.65**
Equipment	**$2,990,757.69**
Home Health Care	**$6,931,849.61**
Hospital	**$60,174,351.12**
Other Medical Expenses	**$19,178,428.39**
Pharmacy	**$7,779,960.23**
Physical Therapy Fees	**$5,173,890.85**
Radiology	**$2,519,339.15**
Total Medical Expenses:	**$124,253,378.83**

2017

Medical Categories	Total Costs
Chiropractor	**$1,079,750.96**
Counseling Services	**$18,201.71**
Dentist	**$147,382.26**
Doctor	**$14,849,841.40**
Equipment	**$1,339,217.67**
Home Health Care	**$559,533.14**
Hospital	**$39,874,400.89**
Other Medical Expenses	**$14,904,121.93**
Pharmacy	**$5,277,801.29**
Physical Therapy Fees	**$4,456,921.68**
Radiology	**$2,027,230.14**
Total Medical Expenses:	**$84,534,403.07**

2018

Medical Categories	Total Costs
Chiropractor	**$1,065,962.38**
Counseling Services	**$43,143.95**
Dentist	**$107,487.17**
Doctor	**$15,119,362.62**
Equipment	**$1,329,512.56**
Home Health Care	**$500,237.50**
Hospital	**$39,863,524.96**
Other Medical Expenses	**$13,688,155.83**
Pharmacy	**$3,441,210.63**
Physical Therapy Fees	**$3,868,945.12**
Radiology	**$1,978,849.14**
Total Medical Expenses:	**$81,006,391.86**

2019

Medical Categories	Total Costs
Chiropractor	**$1,107,038.13**
Counseling Services	**$37,376.10**
Dentist	**$180,606.70**
Doctor	**$134,146,220.87**
Equipment	**$1,805,796.83**
Home Health Care	**$1,016,244.76**
Hospital	**$41,126,395.69**
Other Medical Expenses	**$16,286,622.64**
Pharmacy	**$4,119,017.95**
Physical Therapy Fees	**$5,228,204.46**
Radiology	**$2,424,252.41**
Total Medical Expenses:	**$207,477,776.54**

2020

Medical Categories	Total Costs
Chiropractor	**$980,658.57**
Counseling Services	**$50,326.07**
Dentist	**$209,071.19**
Doctor	**$23,107,673.99**
Equipment	**$1,393,770.96**
Home Health Care	**$721,275.51**
Hospital	**$35,626,006.52**
Other Medical Expenses	**$10,933,694.68**
Pharmacy	**$4,306,468.38**
Physical Therapy Fees	**$5,045,662.68**
Radiology	**$2,262,900.34**
Total Medical Expenses:	**$84,637,508.89**

2021

Medical Categories	Total Costs
Chiropractor	**$894,412.28**
Counseling Services	**$36,866.12**
Dentist	**$109,455.12**
Doctor	**$12,107,212.91**
Equipment	**$1,544,631.86**
Home Health Care	**$2,895,788.23**
Hospital	**$36,010,778.99**
Other Medical Expenses	**$13,971,751.40**
Pharmacy	**$2,440,685.82**
Physical Therapy Fees	**$5,566,628.83**
Radiology	**$1,716,675.48**
Total Medical Expenses:	**$77,294,887.03**

2022

Medical Categories	Total Costs
Chiropractor	**$705,704.65**
Counseling Services	**$17,566.36**
Dentist	**$157,280.61**
Doctor	**$13,555,518.80**
Equipment	**$1,624,542.11**
Home Health Care	**$2,033,071.51**
Hospital	**$35,423,436.66**
Other Medical Expenses	**$1,011,856,241.36**
Pharmacy	**$2,465,903.44**
Physical Therapy Fees	**$3,985,099.91**
Radiology	**$1,552,734.33**
Total Medical Expenses:	**$1,073,377,099.75**

2023

Medical Categories	Total Costs
Chiropractor	**$569,497.61**
Counseling Services	**$34,125.91**
Dentist	**$152,005.69**
Doctor	**$11,673,961.48**
Equipment	**$1,396,557.98**
Home Health Care	**$2,741,024.29**
Hospital	**$29,797,590.61**
Other Medical Expenses	**$11,905,316.87**
Pharmacy	**$3,046,686.00**
Physical Therapy Fees	**$3,454,899.88**
Radiology	**$1,795,898.57**
Total Medical Expenses:	**$66,567,564.89**

Federal Health Care Law

Fraud & Abuse Laws[6]

The five most important Federal fraud and abuse laws that apply to physicians are the False Claims Act (FCA), the Anti-Kickback Statute (AKS), the Physician Self-Referral Law (Stark law), the Exclusion Authorities, and the Civil Monetary Penalties Law (CMPL). Government agencies, including the Department of Justice, the Department of Health & Human Services Office of Inspector General (OIG), and the Centers for Medicare & Medicaid Services (CMS), are charged with enforcing these laws. As you begin your career, it is crucial to understand these laws not only because following them is the right thing to do, but also because violating them could result in criminal penalties, civil fines, exclusion from the Federal health care programs, or loss of your medical license from your State medical board.

False Claims Act [31 U.S.C. § § 3729-3733]

The civil FCA protects the Government from being overcharged or sold shoddy goods or services. It is illegal to submit claims for payment to Medicare or Medicaid that you know or should know are false or fraudulent. Filing false claims may result in fines of up to three times the programs' loss plus $11,000 per claim filed. Under the civil FCA, each instance of an item or a service billed to Medicare or Medicaid counts as a claim, so fines can add up quickly. The fact that a claim results from a kickback or is made in violation of the Stark law also may render it false or fraudulent, creating liability under the civil FCA as well as the AKS or Stark law.

Under the civil FCA, no specific intent to defraud is required. The civil FCA defines "knowing" to include not only actual knowledge but also instances in which the person acted in deliberate ignorance or reckless disregard of the truth or falsity of the information. Further, the civil FCA contains a whistleblower provision that allows a private individual to file a lawsuit on behalf of the United States and entitles that whistleblower to a percentage of any recoveries. Whistleblowers could be current or ex-business partners, hospital or office staff, patients, or competitors.

There also is a criminal FCA (18 U.S.C. § 287). Criminal penalties for submitting false claims include imprisonment and criminal fines. Physicians have gone to prison for submitting false health care claims. OIG also may impose administrative civil monetary penalties for false or fraudulent claims, as discussed below.

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[6] https://oig.hhs.gov/compliance/physician-education/fraud-abuse-laws/#:~:text=The%20Stark%20law%20prohibits%20the,the%20Federal%20health%20care%20programs.

Anti-Kickback Statute [42 U.S.C. § 1320a-7b(b)]
The AKS is a criminal law that prohibits the knowing and willful payment of "remuneration" to induce or reward patient referrals or the generation of business involving any item or service payable by the Federal health care programs (e.g., drugs, supplies, or health care services for Medicare or Medicaid patients). Remuneration includes anything of value and can take many forms besides cash, such as free rent, expensive hotel stays and meals, and excessive compensation for medical directorships or consultancies. **In some industries, it is acceptable to reward those who refer business to you. However, in the Federal health care programs, paying for referrals is a crime.** The statute covers the payers of kickbacks-those who offer or pay remuneration- as well as the recipients of kickbacks-those who solicit or receive remuneration. Each party's intent is a key element of their liability under the AKS.

Criminal penalties and administrative sanctions for violating the AKS include fines, jail terms, and exclusion from participation in the Federal health care programs. Under the CMPL, physicians who pay or accept kickbacks also face penalties of up to $50,000 per kickback plus three times the amount of the remuneration.

Safe harbors protect certain payment and business practices that could otherwise implicate the AKS from criminal and civil prosecution. To be protected by a safe harbor, an arrangement must fit squarely in the safe harbor and satisfy all of its requirements. Some safe harbors address personal services and rental agreements, investments in ambulatory surgical centers, and payments to bona fide employees.

For additional information on safe harbors, see "OIG's Safe Harbor Regulations."

As a physician, you are an attractive target for kickback schemes because you can be a source of referrals for fellow physicians or other health care providers and suppliers. You decide what drugs your patients use, which specialists they see, and what health care services and supplies they receive.
Many people and companies want your patients' business and would pay you to send that business their way. Just as it is illegal for you to take money from providers and suppliers in return for the referral of your Medicare and Medicaid patients, it is illegal for you to pay others to refer their Medicare and Medicaid patients to you.

Kickbacks in health care can lead to:

- Overutilization
- Increased program costs
- Corruption of medical decision making
- Patient steering

- Unfair competition

The kickback prohibition applies to all sources of referrals, even patients. For example, where the Medicare and Medicaid programs require patients to pay copays for services, you are generally required to collect that money from your patients. Routinely waiving these copays could implicate the AKS and you may not advertise that you will forgive copayments. However, you are free to waive a copayment if you make an individual determination that the patient cannot afford to pay or if your reasonable collection efforts fail. It is also legal to provide free or discounted services to uninsured people.

Besides the AKS, the beneficiary inducement statute (42 U.S.C. § 1320a-7a(a)(5)) also imposes civil monetary penalties on physicians who offer remuneration to Medicare and Medicaid beneficiaries to influence them to use their services.

The Government does not need to prove patient harm or financial loss to the programs to show that a physician violated the AKS. A physician can be guilty of violating the AKS even if the physician actually rendered the service and the service was medically necessary. Taking money or gifts from a drug or device company or a durable medical equipment (DME) supplier is not justified by the argument that you would have prescribed that drug or ordered that wheelchair even without a kickback.

Physician Self-Referral Law [42 U.S.C. § 1395nn]

The Physician Self-Referral Law, commonly referred to as the Stark law, prohibits physicians from referring patients to receive "designated health services" payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies. Financial relationships include both ownership/investment interests and compensation arrangements. For example, if you invest in an imaging center, the Stark law requires the resulting financial relationship to fit within an exception or you may not refer patients to the facility and the entity may not bill for the referred imaging services.

"Designated health services" are:

- clinical laboratory services;
- physical therapy, occupational therapy, and outpatient speech-language pathology services;
- radiology and certain other imaging services;
- radiation therapy services and supplies;
- DME and supplies;
- parenteral and enteral nutrients, equipment, and supplies;
- prosthetics, orthotics, and prosthetic devices and supplies;

- home health services;
- outpatient prescription drugs; and
- inpatient and outpatient hospital services.

For more information, see CMS's Stark law Web site

The Stark law is a strict liability statute, which means proof of specific intent to violate the law is not required. The Stark law prohibits the submission, or causing the submission, of claims in violation of the law's restrictions on referrals. Penalties for physicians who violate the Stark law include fines as well as exclusion from participation in the Federal health care programs.

Request #PUBRECREQ0001408 - GOV - Governor's Office Request

First name	Scott
Last name	Munsterman
Email	scott.munsterman@bestpracticesacademy.com
Phone Number	(605) 691-9930
What agency do you need records from?	Department of Labor and Regulation
What specific record are you requesting for disclosure?	ownership of case management plans and the insurance/self insured employers each CMP contracts with - thanks
Final Phone Value	+1 (605) 691-9930

PUBRECREQ0001408 - Public Records Request

External Inbox ×

SD.gov Portal <contactus@sd.gov> Wed, Jan 10, 4:51 PM (13 hours ago)
to me, Jerry.McCabe

Mr. Munsterman,

Thank you for the request for information to the Department of Labor and Regulation (DLR) regarding workers' compensation Case Management Plans (CMPs), which is being treated as an open records request under SDCL 1-27. I am responding on behalf of DLR as these are DLR records. Specifically, you requested "[O]wnership of cas management plans and the insurance/self insured employers each CMP contracts with." For the reasons that follo your request is denied.

The CMP ownership information you seek is contained in CMP applications that are received by DLR in the course its duties under SDCL 58-20-15, 58-20-24, and 62-5-18, and ARSD Ch. 47:03:04. These applications are investiga by DLR for compliance and contain personal identification numbers, detailed ownership information, various disclosures, and other sensitive nonpublic applicant information which, if released, would be an unreasonable rele of personal information. Pursuant to SDCL 1-27-1.5(5), (16), and (22), these documents cannot be provided.

The contracting information regarding CMPs is data that is not collected by DLR and therefore we have no docume responsive to this portion of your request.

Due to the above, the some of the documents you seek are not open to public inspection and will not be provided; some DLR does not possess. As you are aware, a list of DLR Certified CMPs is available here: https://dlr.sd.gov/workers_compensation/case_management.aspx.

Sincerely,

Frank A. Marnell

Senior Legal Counsel | *Division of Insurance*

South Dakota Department of Labor and Regulation